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No. (1)

Supreme Court, U.S.
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In The
Supreme Court of the United States

IN RE: JONATHAN A. MOSELEY,

Petitioner.

ON PETITION FOR WRIT OF CERTIORARI
TO THE SUPREME COURT OF VIRGINIA

PETITION FOR WRIT OF CERTIORARI WITH APPENDIX

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QUESTIONS PRESENTED

Whether out-of-court statements, in the form of a private e-mail to three people not parties to the litigation, made by an attorney about a judge in a pending case may, consistent with the First Amendment, be the subject of discipline because the private e-mail carries no substantial likelihood of material prejudice to the administration of justice.

LIST OF PARTIES

There is no respondent in this case. This petition arises from an action for breach of an employment contract. Mr. Moseley was not a party to the case in the trial court, but was counsel for the plaintiff. The trial court revoked Mr. Moseley's right to practice law in that court and he appealed to the Supreme Court of Virginia.

The contract suit settled on appeal and the defendant was dismissed as an appellee. The court appointed a member of the bar as amicus curiae to brief and argue in support of the trial court's order. App. 7A-8A, n. 6.

The amicus did not deal with the question presented here as this petition seeks review of an issue as to which the Supreme Court of Virginia denied discretionary review. App. 17A-18A. Nevertheless, service of this petition will be effected on the amicus curiae in the court below.

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IN THE
SUPREME COURT OF THE UNITED STATES

In Re:

JONATHAN A. MOSELEY,

PETITIONER.

PETITION FOR WRIT OF CERTIORARI

CITATIONS BELOW

In re Moseley, 273 Va. 688, 643 S.E.2d 190 (2007).[1]

STATEMENT OF JURISDICTION

The Supreme Court of Virginia rendered its opinion in this matter on April 20, 2007. App. 1A. A petition for rehearing was denied by order entered June 22, 2007. App. 32A. Judgment was entered by order dated July 17, 2007. App. 33A.

This Court has jurisdiction to review final judgments rendered by the highest court of a State where any title, right, privilege, or immunity is specially set up or claimed under the Constitution of the United States. 28 U.S.C. § 1257.

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[1] Note that the opinion does not deal with the question presented here. The issue was presented to the Supreme Court of Virginia, but review was denied. App. 17A-18A.

CONSTITUTIONAL AND STATUTORY PROVISIONS

> Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

U.S. Const. amend. 1.

> A lawyer shall not make a statement that the lawyer knows to be false or with reckless disregard as to its truth or falsity concerning the qualifications or integrity of a judge or other judicial officer.

Va. Sup. Ct. R. 6:II:8.2.

STATEMENT OF THE CASE

Material Facts

The facts as recited by the Supreme Court of Virginia are set out here verbatim (including footnotes):

This case arises from the proceedings in two breach of contract cases filed by Moseley on behalf of his client, Tracy E. Ammons, against The Christian Coalition of America, Inc. ("the Christian Coalition"). In the first suit, both parties denied having a copy of the consulting agreement in controversy, so the circuit court conducted an evidentiary hearing to

determine the nature of the agreement. A primary issue before the court was whether the agreement contained an arbitration clause, as the Christian Coalition contended, b[illegible]which Ammons denied. On cross-examination during the hearing, Ammons testified he had found a copy of the consulting agreement, and that he had given a copy to his attorney, Moseley, who had it in the courtroom. Ammons further admitted that the agreement contained an arbitration clause.

Moseley, acting on behalf of Ammons, immediately requested a nonsuit. The circuit court stated it was compelled to grant the nonsuit, and then strongly reprimanded Moseley for his conduct during the course of the proceedings. In particular, the circuit court cited Moseley's failure to inform the court and opposing counsel that the contract had been located and contained the very arbitration provision he had previously denied existed. Furthermore, the circuit court cited Moseley's prior filing of numerous frivolous pleadings and motions in the matter, which needlessly wasted the time of the court and counsel. The circuit court then awarded sanctions against Moseley and Ammons, jointly and severally, in the amount of $83,141.24, which represented a portion of the Christian Coalition's attorney's fees and costs related to Moseley's actions ("the monetary sanctions award").[2]

---

[2] Moseley filed a timely notice and petition of appeal from this order. However, on March 15, 2005, this Court dismissed the petition for appeal under Rule 5:11 for failure to timely file a transcript or written statement of facts. The monetary sanctions award against Moseley and Ammons is not before the Court in this appeal.

Ammons and the Christian Coalition then entered into arbitration proceedings concerning the Christian Coalition's alleged breach of the consulting agreement. While the arbitration was ongoing, Moseley filed a second motion for judgment on Ammons' behalf, alleging substantially the same claims against the Christian Coalition as in the first motion for judgment.[3] The Christian Coalition filed a motion to disqualify Moseley from representing Ammons, asserting Moseley had an "irreconcilable and unwaiveable per se conflict" because his "personal interest inextricably [is] intertwined [and] adverse to his own client."[4]

On February 16, 2006, the circuit court heard argument regarding the motion to disqualify Moseley from representing Ammons regarding the second motion for judgment.[5] Despite being sent a

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[3] The second motion for judgment attached a copy of the consulting agreement and contended the Christian Coalition waived its right to rely on the arbitration provisions by defending the prior motion for judgment.

[4] Among the factors the Christian Coalition cited in its motion to disqualify were: Moseley and Ammons' joint and several liability for the monetary sanctions award, Moseley's subsequent declaration of bankruptcy that would insulate him from collection of the monetary sanctions award, Moseley's failure to perfect an appeal of the monetary sanctions award, and Moseley's potential testimony in the pending case regarding the contract's arbitration clause.

[5] Judge Joanne F. Alper was the presiding judge in the proceedings related to the first motion for judgment, and entered the monetary sanctions award. However, Judge Alper "voluntarily recused herself for the limited purpose of hearing Defendant's Motion to Disqualify." Judge Benjamin N.A. Kendrick presided over the remaining proceedings relevant to this appeal, including the February 16, 2006 and March 16, 2006 hearings.

copy of the praecipe setting the hearing for that date, Moseley did not appear at the hearing due to an apparent miscommunication from the clerk's office and the judge's chambers, which led Moseley to believe no hearing would occur that day. However, the hearing did proceed as scheduled on February 16th and the Christian Coalition argued its motion to disqualify Moseley from the second motion for judgment proceeding and it urged the court to consider additional sanctions, including issuing a rule to show cause based on Moseley's conduct. In addition, the Christian Coalition called David Ross Rosenfeld to testify as an expert in the field of legal ethics in Virginia. Rosenfeld testified that Moseley had a conflict of interest with Ammons and that Moseley's "conduct falls well below the [ethical and professional] standard of care" for attorneys licensed to practice law in Virginia. Rosenfeld also testified that he examined a letter written by and a motion filed by Moseley, and they contained "entirely inappropriate, inaccurate, and in some instances, just downright . . . false" allegations about Judge Alper.[6]

As a result of the hearing, the circuit court entered an order on February 27, 2006 that granted the Christian Coalition's motion to disqualify Moseley and further directing Moseley "to appear before this Court on the 16[th] day of March 2006 to

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[6] Moseley's letter and motion, which the Christian Coalition introduced into evidence at the hearing, indicated that Judge Alper decided to recuse herself from hearing the motion to disqualify him from representing Ammons because she had engaged in "misconduct" during the first motion for judgment proceedings.

show cause why Moseley's right to practice before this Court should not be revoked."

As directed by the circuit court, Moseley received a copy of the February 27 order and a transcript of the February 16 hearing. Moseley petitioned the circuit court for a rehearing regarding the February 27 order, and explained the reason for his absence from the February 16 hearing. In light of Moseley's explanation, the circuit court "vacated [the February 27 order] pending the outcome of the March 16, 2006 hearing."

Prior to the March 16 hearing, the Christian Coalition alerted the circuit court that it had just obtained an e-mail written and circulated by Moseley, which the Christian Coalition asked be considered at the March 16 hearing. Moseley was sent a copy of both the Christian Coalition's letter to the circuit court and the e-mail. In the e-mail, Moseley characterized opposing counsel as "certainly demonically empowered. I have never seen anyone who reeks of evil so much." Furthermore, Moseley described the monetary sanctions award entered by Judge Alper as "an absurd decision from a whacko judge, whom I believe was bribed."

At the March 16 hearing, which included the Rule to Show Cause, the circuit court directed the Christian Coalition to reargue its motion to disqualify Moseley. In its opening statement, the Christian Coalition argued "the evidence is overwhelming that [Moseley] should not only be disqualified [from representing Ammons], but within this judicial district [have his right to practice] suspend[ed] or revoke[d]," and have his conduct

reported to the State Bar for further investigation. The presiding judge then reiterated that those would be the three issues before the court during the hearing.

The Christian Coalition again called David Ross Rosenfeld as an expert witness, and he gave substantially the same testimony as in the February 16 hearing. When asked about Moseley's recent e-mail, Rosenfeld testified that in his expert opinion, "the characterization of a sitting judge as a wacko judge constitutes a per se violation of the standard of care established through Rule 8.2" of the Rules of Professional Conduct in Virginia.

During the hearing, Moseley repeatedly contended that he had not been given notice that the court was considering the revocation of his privilege to practice before it. The circuit court rejected Moseley's argument, finding that Moseley had been given adequate notice of the issue in the motion to disqualify, the transcripts of the February 16 hearing, the specific terms of the February 27 order, particularly the rule to show cause, and the enunciation by counsel and the court of the issues before it at the hearing.

The circuit court then entered an order dated March 16, 2006, finding that Moseley had "an irreconcilable [and unwaiveable] conflict of interest" and ordered that he "immediately terminate his representation" of Ammons. The court also made a specific finding that Moseley "had timely, adequate, and proper notice of this proceeding" and that it had "the inherent power to suspend or annul the license of an attorney practicing before it. § 54.1-3915, Code

of Virginia [and] *Legal Club of Lynchburg v. Light*, 137 Va. 249[, 119 S.E. 55] (1923)." The order then recited that "Moseley's conduct during . . . this cause . . . raises sufficient and serious questions for this Court regarding [his] competency and fitness to practice law before this Court" and found Moseley had "engaged in unethical conduct in violation of the Virginia Code of Professional Conduct and . . . made contemptible, irresponsible and false statements about a sitting judge." The March 16, 2006 order then provided that "Moseley's right to practice before the Circuit Court of Arlington . . . be and hereby is revoked" and referred to the Virginia State Board and this Court "consideration of reciprocal revocation of licensure."

We awarded Moseley this appeal from the March 16, 2006 order as to the revocation of his privilege to practice before the Circuit Court of Arlington County.[7]

Preservation of Federal Question

The judgment appealed from revoked Mr. Moseley's right to practice law in the Circuit Court of Arlington County. One of the principal reasons for the revocation was an e-mail Mr. Moseley sent to

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[7] Moseley's disqualification from representing Ammons and the referral to the Virginia State Bar are not before this Court on appeal. The underlying dispute between Ammons and the Christian Coalition has subsequently settled. Consequently, we granted Moseley's motion to dismiss the Christian Coalition as appellee in the matter and the appeal was re-styled In re Moseley. The Court designated counsel to argue as amicus curiae in support of the circuit court's actions.

three people not parties to the case. App. 50A. "In the e-mail, Moseley characterized opposing counsel as 'certainly demonically empowered. I have never seen anyone who reeks of evil so much.' Furthermore, Moseley described the monetary sanctions award entered by Judge Alper as 'an absurd decision from a whacko judge, whom I believe was bribed.'" 273 Va. at ___, 643 S.E.2d at 193.

During the cross-examination of M . Ammons, Mr. Moseley's client, a question referred to the e-mail as "statements in public." 3/16/06 Tr. 139, SCV App. 330. Mr. Moseley objected to the characterization of the statements as public, which was summarily overruled. 3/16/06 Tr. 140, SCV App. 331.

Later the trial judge questioned Mr. Moseley about the e-mail. Mr. Moseley's responses emphasized the private nature of the e-mail, which he characterized as a prayer request to his prayer partners. App. 44A-49A. At the conclusion of the hearing, the trial judge entered the order of revocation. App. 23A.

Mr. Moseley filed a motion for rehearing in which he averred that the trial court's reliance upon a private communication as a violation of a disciplinary rule violated the First Amendment. App. 39A-44A. This motion was brought on for hearing on April 7, 2006 and the court denied the motions without any further findings or rationale. App. 36A-37A & 19A.

Mr. Moseley appealed to the Supreme Court of Virginia.[8] Mr. Moseley assigned a number of errors to the actions of the trial court in his petition for discretionary review. One of them was, "The trial court erred in considering the email to three private parties when it did not represent a substantial likelihood of material prejudice to the administration of justice." SCV Petition for Appeal at 8. He argued that reliance upon evidence which did not show a substantial likelihood of material prejudice to the administration of justice violated the First Amendment and was therefore insufficient as a matter of law to support the judgment of revocation. *Id.* at 19-21.

The Supreme Court of Virginia granted the petition for appeal in part and denied it in part. App. 17A-18A. The quoted assignment of error was among those issues the court declined to hear. *Id.* After briefing, argument and decision of the issues granted review, Mr. Moseley petitioned for a rehearing including a rehearing of the quoted assignment of error that had been denied. The rehearing was denied by order entered June 22, 2007. App. 32A.

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[8] The Court of Appeals of Virginia has no general civil jurisdiction. Va. Code § 17.1-405. Thus, appeals in civil actions at law and suits in equity are made directly to the Supreme Court of Virginia. Va. Code § 8.01-670(A)(3).

REASONS FOR GRANTING THE WRIT

Whether out-of-court statements, in the form of a private e-mail to three people not parties to the litigation, made by an attorney about a judge in a pending case may, consistent with the First Amendment, be the subject of discipline because the private e-mail carries no substantial likelihood of material prejudice to the administration of justice.

The refusal of both the trial court and the Supreme Court of Virginia to consider the federal question presented to them presents a situation where a state court has decided an important question of federal law in a way that conflicts with relevant decisions of this Court. Rule 10(c).

This case involves the interplay between Rule 8.2 of the Virginia Rules of Professional Conduct, Va. Sup. Ct. R. 6:II:8.2, and this Court's decision in *Gentile v. State Bar of Nevada*, 501 U.S. 1030 (1991). The Virginia Rules of Professional Conduct are modeled after the American Bar Association Rules of Professional Conduct, which have been widely adopted across the nation. The issue thus has significance to others beyond the litigants in this particular case.

In *Gentile*, the lawyer held a press conference prior to a criminal trial and was disciplined for doing so. The Court, in construing the Nevada rule that was "almost identical" to the ABA model, held that

the rule's standard that the proscription of speech applied only to those statements that create a "substantial likelihood of material prejudice" to the administration of justice" was indeed consistent with the First Amendment. *Id.* at 1074-75. *See also In re Primus*, 436 U.S. 412 (1978) and *Bates v. State Bar of Arizona*, 433 U.S. 350 (1977).

Gentile was a case involving pre-trial publicity in a criminal case where the rule, by its terms, satisfied adequate First Amendment protections. In contrast this is a civil case and the rule in question does not explicitly address the effect of the statements on the administration of justice. Rule 8.2 provides, "A lawyer shall not make a statement that the lawyer knows to be false or with reckless disregard as to its truth or falsity concerning the qualifications or integrity of a judge or other judicial officer." Va. Sup. Ct. R. 6:II:8.2.

Virginia case law has, however, previously addressed the question. The result was that the First Amendment requires a showing that the statements in question have a potential adverse effect on the administration of justice notwithstanding the fact that Rule 8.2 does not address the subject explicitly.

The case was *Anthony v. Virginia State Bar*, 270 Va. 601, 621 S.E.2d 121 (2005). Anthony had filed various lawsuits and appeals therefrom in which he impugned the integrity of numerous state and federal judges, accusing them of conduct, including lying, manufacturing or concealing evidence and being corrupt. *Id.* at 608-610, 621 S.E.2d at 125-26.

The court held that even though Rule 8.2 does not expressly provide for a balancing mechanism to weigh the relative merits of the lawyer's right to free speech and the state's interest in the integrity of judicial proceedings, such a standard was required. The court adopted the test set out by this Court in *Gentile*.

The court also looked to provisions contained elsewhere in the Rules of Professional conduct. Thus, in upholding the discipline meted out to Anthony, the court noted that the statements he made had the potential to materially prejudice the administration of justice by undermining public confidence in the qualifications and integrity of judges. It found this standard in Rule 3.6, the same rule at issue in *Gentile*.[9]

In this case, the trial court erred in characterizing Mr. Moseley's e-mail as "publishing it on the Internet." 5/5/06 Tr. 15. On its face, the e-mail was addressed to three individuals. Its content is a request for prayer. Those requests included a request to "PRAY FOR JUDGE BENJAMIN KENDRICK to not be spiritually influenced by evil, to have a clear mind, to be conscientious, and to make a fair and right decision." App. 53A.

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[9] "A lawyer participating in or associated with the investigation or the prosecution or the defense of a criminal matter that may be tried by a jury shall not make or participate in making an extrajudicial statement that a reasonable person would expect to be disseminated by means of public communication that the lawyer knows, or should know, will have a substantial likelihood of interfering with the fairness of the trial by a jury." Va. Sup. Ct. R. 6:II:3.6(a).

The e-mail speaks of Biblical examples of injustice in the courts. It refers to the proceedings as "demonic" and opines that "clearly malevolent forces [are] turning normal procedures into weird and bizarre events." App. 51A. In reference to the judgment for $83,000 that had been entered against him as a sanction in the voluntarily dismissed first suit, it said that it was "an absurd decision by a whacko judge, whom I believe was bribed." App. 55A.

Gentile requires a showing of substantial likelihood of material prejudice to the administration of justice before the lawyer's speech may be restricted. In this case, the trial court made no finding that the email to three private parties represented a substantial likelihood of material prejudice to the administration of justice. It made no such finding because it could not. It was a private and not a public communication. It had no substantial likelihood of material prejudice to the administration of justice.

In short, a lawyer has the freedom to request that his friends pray for him. He has the freedom to complain privately of the unfairness or even absurdity of the proceedings. He has the freedom to say privately that in order to reach such an "absurd" result the judge has to be "whacko" or must have been bribed. This is not a press conference as in *Gentile*. It is not a public document such as a pleading or a brief as in *Anthony*. These are statements of opinion or belief, expressed in a private email and as such carried with them no likelihood of material prejudice to the administration of justice. The Virginia courts' refusal to recognize

this fact has punished Mr. Moseley's speech by restricting his ability to practice his profession.

CONCLUSION

For the foregoing reasons, it is respectfully submitted that this Honorable Court grant a writ of certiorari and reverse the judgment of the Supreme Court of Virginia.

Respectfully submitted,

JONATHAN A. MOSELEY

By Counsel

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Exhibit:

1. Forwarded E-mail to
Betsy Thraves, Bob Perry, and
David Grabau from
Jonathon Moseley
Re: Request for Prayer re: Huge Lawsuit
dated March 3, 2006 ..... 50A

PRESENT: Hassell, C.J., Lacy, Keenan, Koontz, Lemons, and Agee, JJ., and Russell, S.J.

OPINION BY
JUSTICE G. STEVEN AGEE

IN RE: JONATHAN A. MOSELEY

Record No. 061237

[Entered:] April 20, 2007

FROM THE CIRCUIT COURT OF
ARLINGTON COUNTY

Benjamin N.A. Kendrick, Judge

Jonathan A. Moseley appeals the judgment of the Circuit Court of Arlington County, which revoked his "right to practice before the Circuit Court of Arlington." Moseley contends the circuit court erred for two reasons: First, he argues the court "was without jurisdiction" to revoke his right to practice. Second, he asserts that even if the circuit court had jurisdiction to act, it failed to provide him "notice of the alleged misconduct" before the revocation. For the reasons set forth below, we will affirm the judgment of the circuit court.

I. BACKGROUND AND MATERIAL PROCEEDINGS BELOW

This case arises from the proceedings in two breach of contract cases filed by Moseley on behalf of his client, Tracy E. Ammons, against

The Christian Coalition of America, Inc. ("the Christian Coalition"). In the first suit, both parties denied having a copy of the consulting agreement in controversy, so the circuit court conducted an evidentiary hearing to determine the nature of the agreement. A primary issue before the court was whether the agreement contained an arbitration clause, as the Christian Coalition contended, but which Ammons denied. On cross-examination during the hearing, Ammons testified he had found a copy of the consulting agreement, and that he had given a copy to his attorney, Moseley, who had it in the courtroom. Ammons further admitted that the agreement contained an arbitration clause.

Moseley, acting on behalf of Ammons, immediately requested a nonsuit. The circuit court stated it was compelled to grant the nonsuit, and then strongly reprimanded Moseley for his conduct during the course of the proceedings. In particular, the circuit court cited Moseley's failure to inform the court and opposing counsel that the contract had been located and contained the very arbitration provision he had previously denied existed. Furthermore, the circuit court cited Moseley's prior filing of numerous frivolous pleadings and motions in the matter, which needlessly wasted the time of the court and counsel. The circuit court then awarded sanctions against Moseley and Ammons, jointly and severally, in the amount of $83,141.24, which represented a portion of the Christian Coalition's attorney's fees and costs

related to Moseley's actions ("the monetary sanctions award").[1]

Ammons and the Christian Coalition then entered into arbitration proceedings concerning the Christian Coalition's alleged breach of the consulting agreement. While the arbitration was ongoing, Moseley filed a second motion for judgment on Ammons' behalf, alleging substantially the same claims against the Christian Coalition as in the first motion for judgment.[2] The Christian Coalition filed a motion to disqualify Moseley from representing Ammons, asserting Moseley had an "irreconcilable and unwaiveable per se conflict" because his "personal interest inextricably [is] intertwined [and] adverse to his own client."[3]

---

[1] Moseley filed a timely notice and petition of appeal from this order. However, on March 15, 2005, this Court dismissed the petition for appeal under Rule 5:11 for failure to timely file a transcript or written statement of facts. The monetary sanctions award against Moseley and Ammons is not before the Court in this appeal.

[2] The second motion for judgment attached a copy of the consulting agreement and contended the Christian Coalition waived its right to rely on the arbitration provisions by defending the prior motion for judgment.

[3] Among the factors the Christian Coalition cited in its motion to disqualify were: Moseley and Ammons' joint and several liability for the monetary sanctions award, Moseley's subsequent declaration of bankruptcy that would insulate him from collection of the monetary sanctions award, Moseley's failure to perfect an appeal of the monetary sanctions award, and Moseley's potential testimony in the pending case regarding the contract's arbitration clause.

On February 16, 2006, the circuit court heard argument regarding the motion to disqualify Moseley from representing Ammons regarding the second motion for judgment.[4] Despite being sent a copy of the praecipe setting the hearing for that date, Moseley did not appear at the hearing due to an apparent miscommunication from the clerk's office and the judge's chambers, which led Moseley to believe no hearing would occur that day. However, the hearing did proceed as scheduled on February 16th and the Christian Coalition argued its motion to disqualify Moseley from the second motion for judgment proceeding and it urged the court to consider additional sanctions, including issuing a rule to show cause based on Moseley's conduct. In addition, the Christian Coalition called David R. Rosenfeld to testify as an expert in the field of legal ethics in Virgina. Rosenfeld testified that Moseley had a conflict of interest with Ammons and that Moseley's "conduct falls well below the [ethical and professional] standard of care" for attorneys licensed to practice law in Virginia. Rosenfeld also testified that he examined a letter written by and a motion filed by Moseley, and they contained "entirely inappropriate, inaccurate, and in some instances,

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[4] Judge Joanne F. Alper was the presiding judge in the proceedings related to the first motion for judgment, and entered the monetary sanctions award. However, Judge Alper "voluntarily recused herself for the limited purpose of hearing from Defendant's Motion to Disqualify." Judge Benjamin N.A. Kendrick presided over the remaining proceedings relevant to this appeal, including the February 16, 2006 and March 16, 2006 hearings.

just downright . . . false" allegations about Judge Alper.[5]

As a result of the hearing, the circuit court entered an order on February 27, 2006 that granted the Christian Coalition's motion to disqualify Moseley and further directing Moseley "to appear before this Court on the 16[th] day of March 2006 to show cause why Moseley's right to practice before this Court should not be revoked."

As directed by the circuit court, Moseley received a copy of the February 27 order and a transcript of the February 16 hearing. Moseley petitioned the circuit court for a rehearing regarding the February 27 order, and explained the reason for his absence from the February 16 hearing. In light of Moseley's explanation, the circuit court "vacated [the February 27 order] pending the outcome of the March 16, 2006 hearing."

Prior to the March 16 hearing, the Christian Coalition alerted the circuit court that it had just obtained an e-mail written and circulated by Moseley, which the Christian Coalition asked be considered at the March 16 hearing. Moseley was sent a copy of both the Christian Coalition's letter to the circuit court and the e-mail. In the e-mail, Moseley characterized opposing counsel as "certainly demonically empowered. I have never seen anyone

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[5] Moseley's letter and motion, which the Christian Coalition introduced into evidence at the hearing, indicated that Judge Alper decided to recuse herself from hearing the motion to disqualify him from representing Ammons because she had engaged in "misconduct" during the first motion for judgment proceedings.

who reeks of evil so much." Furthermore, Moseley described the monetary sanctions award entered by Judge Alper as "an absurd decision from a whacko judge, whom I believe was bribed."

At the March 16 hearing, which included the Rule to Show Cause, the circuit court directed the Christian Coalition to reargue its motion to disqualify Moseley. In its opening statement, the Christian Coalition argued "the evidence is overwhelming that [Moseley] should not only be disqualified [from representing Ammons], but within this judicial district [have his right to practice] suspend[ed] or revoke[d]," and have his conduct reported to the State Bar for further investigation. The presiding judge then reiterated that those would be the three issues before the court during the hearing.

The Christian Coalition again called David Ross Rosenfeld as an expert witness, and he gave substantially the same testimony as in the February 16 hearing. When asked about Moseley's recent e-mail, Rosenfeld testified that in his expert opinion, "the characterization of a sitting judge as a wacko judge constitutes a per se violation of the standard of care established through Rule 8.2" of the Rules of Professional Conduct in Virginia.

During the hearing, Moseley repeatedly contended that he had not been given notice that the court was considering the revocation of his privilege to practice before it. The circuit court rejected Moseley's argument, finding that Moseley had been given adequate notice of the issue in the motion to disqualify, the transcripts of the February 16

hearing, the specific terms of the February 27 order, particularly the rule to show cause, and the enunciation by counsel and the court of the issues before it at the hearing.

The circuit court then entered an order dated March 16, 2006, finding that Moseley had "an irreconcilable [and unwaiveable] conflict of interest" and ordered that he "immediately terminate his representation" of Ammons. The court also made a specific finding that Moseley "had timely, adequate, and proper notice of this proceeding" and that it had "the inherent power to suspend or annul the license of an attorney practicing before it. § 54.1-3915, Code of Virginia [and] Legal Club of Lynchburg v. Light, 137 Va. 249[, 119 S.E. 55] (1923)." The order then recited that "Moseley's conduct during . . . this cause . . . raises sufficient and serious questions for this Court regarding [his] competency and fitness to practice law before this Court" and found Moseley had "engaged in unethical conduct in violation of the Virginia Code of Professional Conduct and . . . made contemptible, irresponsible and false statements about a sitting judge." The March 16, 2006 order then provided that "Moseley's right to practice before the Circuit Court of Arlington . . . be and hereby is revoked" and referred to the Virginia State Board and this Court "consideration of reciprocal revocation of licensure."

We awarded Moseley this appeal from the March 16, 2006 order as to the revocation of his

privilege to practice before the Circuit Court of Arlington County.[6]

II. ANALYSIS

On appeal to this Court, Moseley makes two assignments of error. First, he contends the circuit court erred because it "was without jurisdiction" to revoke his entitlement to practice law before the Circuit Court of Arlington County. Second, Moseley asserts the circuit court failed to properly provide him "notice of the alleged misconduct" prior to taking such action. We address each assignment of error in turn.

A. Jurisdiction of the Circuit Court

Moseley contends the Circuit Court of Arlington County did not have jurisdiction to revoke his entitlement to practice before it because the "whole field of disbarment in Virginia" is now regulated by statute. He argues that because the circuit court did not follow the procedure for disbarment set forth in Code § 54.1-3935, it was without authority to act so as to bar his practice before that court. Moseley distinguishes the circuit court's authority "to remove counsel in a particular

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[6] Moseley's disqualification from representing Ammons and the referral to the Virginia State Bar are not before this Court on appeal. The underlying dispute between Ammons and the Christian Coalition has subsequently settled. Consequently, we granted Moseley's motion to dismiss the Christian Coalition as appellee in the matter and the appeal was re-styled In re Moseley. The Court designated counsel to argue as amicus curiae in support of the circuit court's actions.

case or to punish for contempt," and the type of action here, which removes his ability to appear before the court.

At the outset, it is important to note that Moseley's license to practice law in Virginia was not affected by the March 16, 2006 order. Licensure of an attorney, and revocation of that license, are matters governed by statute. Code §§ 54.1-3928, -3934 et seq. It is not within the jurisdiction of a circuit court to adjudicate the revocation of a license to practice law except in compliance with the statutory authority. Code § 54.1-3935.[7] The circuit court clearly recognized that limitation because it referred any action regarding Moseley's license to practice law to the Virginia State Bar. A license to practice law covers the full panoply of actions an attorney can undertake from writing a will to representing a person in a controversy before a court. And while the issuance of a license to practice law carries with it certain rights for the holder of that license, the ability to practice before a particular court is a distinct and separate consideration.

The matter before the Court on appeal, however, is not the status of Moseley's license to practice law, but whether a court can revoke his privilege to practice before a particular court when no statute specifically provides for that action. The

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[7] Even before the unification of the various bars within the Commonwealth and creation of the Virginia State Bar in 1938, revocation of a license to practice law was a matter governed by statute. Ex Parte Fisher, 33 Va. (6 Leigh) 619, 624-25 (1835).

answer to that query is answered by our long-standing jurisprudence.

We addressed the basic issue now before us in 1835 in Ex Parte Fisher, 33 Va. (6 Leigh) 619, 624-25 (1835). Our resolution of the issue then remains as valid today as it was nearly two centuries ago. "[I]ndependently of any statutory restriction, the courts of record of this [C]ommonwealth might, in a proper case, suspend or annul the license of an attorney, so far as it authorized him to practice in the particular court, which pronounced the sentence, but no farther." Id. at 624.

Although the local circuit courts had jurisdiction in the 19th century both to issue a license to practice law and control the actual practice before that court, the intervening statutory regimen ceding licensure to the Virginia State Bar (as opposed to the various circuit courts) has no effect on the continuing authority of a court to regulate the privilege of practicing before that court. We explained this concept in Legal Club of Lynchburg:

> Independent of statutory authority, all courts of record in Virginia have inherent power in a proper case to suspend or annul the license of an attorney practicing in the particular court which pronounces the sentence of disbarment.

137 Va. at 250, 119 S.E. at 55. This independent and inherent power to regulate the lawyers practicing before it is vested in courts as part of the authority necessary to the existence and function of

a court. See, e.g., Link v. Wabash R. Co., 370 U.S. 626, 630-31 (1962).

In Code § 54.1-3935, on which Moseley relies, the General Assembly has set forth the procedure by which the appropriate court is empowered to revoke or suspend a license to practice law that affects the right to practice law throughout the Commonwealth.[8] However, as recognized in Legal Club, this statutory authority does not curtail a court's pre-existing and independent authority to control those who practice before it, including the

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[8] Subsection (A) of Code § 54.1-3935 states:

> If the Supreme Court, the Court of Appeals, or any circuit court of this Commonwealth observes, or if a complaint, verified by affidavit is made by any person to such court, that any attorney has been convicted of a misdemeanor involving moral turpitude or a felony or has violated the Virginia Code of Professional Responsibility, the court may assign the matter to the Virginia State Bar for investigation. Upon receipt of the report of the Virginia State Bar, the court may issue a rule against such attorney to show cause why his license to practice law shall not be revoked. If the complaint, verified by affidavit, is made by a district committee of the Virginia State Bar, the court shall issue a rule against the attorney to show cause why his license to practice law shall not be revoked.

The remaining subsections set forth how the case will proceed and the attorney's rights during the proceedings. Subsection (D) specifically authorizes the court to, inter alia, revoke or suspend an attorney's "license to practice law in this Commonwealth" if the attorney is found guilty by the court.

authority to suspend or revoke an attorney's privilege to practice before that court. 137 Va. at 250-51, 119 S.E. at 55. "Such power does not depend for its existence upon either constitutional or statutory provisions, but is possessed by all courts of record, unless taken away by express constitutional (or possibly legislative) inhibition." Id. at 251, 119 S.E. at 55.

Although Legal Club seemed to leave open the possibility that a legislative enactment could circumscribe a court's authority to discipline attorneys practicing before it, this Court's decision in Norfolk & Portsmouth Bar Ass'n v. Drewry, 161 Va. 833, 172 S.E. 282 (1934), annuls that possibility. In Drewry we reiterated not only that a court has "an inherent power" to discipline and regulate attorneys practicing before it, but also recognized that "[t]his power, since the judiciary is an independent branch of government, is not controlled by statute." 161 Va. at 836, 172 S.E. at 283. Thus, the court's authority to discipline attorneys and regulate their conduct in proceedings before that court is also a constitutional power derived from the separation of powers between the judiciary, as an independent branch of government, and the other branches. Va. Const. art. III, § 1; art. VI, § 1; see, e.g., Harlen v. Helena, 676 P.2d 191, 193 (Mont. 1984); Hustedt v. Workers' Comp. Appeals Bd., 636 P.2d 1139, 1142-44 (Cal. 1981); R.J. Edwards, Inc. v. Hert, 504 P.2d 407, 411 (Okla. 1972); State ex rel. Oregon State Bar v. Lenske, 407 P.2d 250, 254-56 (Or. 1965); In re Sparks, 101 S.W.2d 194, 196 (Ky. 1936). As the circuit court implied, this inherent and constitutional power is essentially acknowledged in

Code § 54.1-3915, where even this Court is prohibited from promulgating "any rule or regulation or method of procedure which eliminates the jurisdiction of the courts to deal with the discipline of attorneys."

Our more recent cases continue to recognize this inherent and constitutional authority of a court to discipline attorneys apart from the formal statutory disciplinary procedures affecting the attorney's license to practice law. For example, as recently as March of this year, we summarized our jurisprudence in this area in Nusbaum v. Berlin, 273 Va. 385, 641 S.E.2d 494 (2007):

> [T]his Court has recognized that the courts of this Commonwealth have the inherent power to supervise the conduct of attorneys practicing before them and to discipline any attorney who engages in misconduct. A court's inherent power to discipline an attorney practicing before it includes the power not only 'to remove an attorney of record in a case,' [Judicial Inquiry and Review Comm'n v. Peatross, 269 Va. 428, 447, 611 S.E.2d 392, 402 (2005)], but also 'in a proper case to suspend or annul the license of an attorney practicing in the particular court.' "

Id. at 399, 641 S.E.2d at 501 (citations omitted). Thus, the authority of a court to regulate the conduct of attorneys practicing before that court by revoking or suspending that privilege is both an inherent and

a constitutional power that is not dependent on its creation by legislative enactment and thus cannot be limited by statute. Accordingly, under our long-standing precedent, the circuit court had jurisdiction to revoke Moseley's privilege to practice before that court.[9]

The March 16, 2006 order by its plain terms applies only to Moseley's right to practice before the Circuit Court of Arlington County. By necessity, the circuit court's action is the act of that court and not limited to practice before the individual judge presiding over the case. See Commonwealth v. Epps, 273 Va. 410, 414, 641 S.E.2d 77, 80 (2007) (In the context of contemptuous behavior in the courtroom, "[a]ny harm in this case was suffered by the court as an institution, not by [the judge] personally."). By that, we mean the order of March 16, 2006, by its very issuance, is an act binding within the jurisdictional limits of the Circuit Court of Arlington County. Therefore, the Circuit Court of Arlington County, which is coterminous with the 17th judicial circuit, has authority to regulate the conduct of attorneys throughout that circuit, but no further. Indeed, as we recognized in Ex Parte Fisher, Legal Club, and Drewry, a court's authority in the discipline of attorneys practicing before it is limited to the jurisdictional boundaries of that court and

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[9] Moseley raises no issue as to the sufficiency of the evidence to support the circuit court's judgment, nor does he raise an issue as to whether the circuit court abused its discretion, based on the evidence, in revoking his privilege to practice before the court. Thus, we address neither matter. Rule 5:17(c).

cannot extend to other courts beyond that boundary.[10]

For all these reasons, we conclude the circuit court had jurisdiction to revoke Moseley's privilege to appear in that court and thus did not err in the judgment of March 16, 2006.

B. Notice of the Alleged Misconduct

Moseley also alleges the circuit court erred in revoking his privilege to practice before the Circuit Court of Arlington County "without notice of the alleged misconduct." Although Moseley also argues on brief the broader contention that he did not have notice "that his right to practice law was in jeopardy," he made no assignment of error as to that issue. We thus limit our review to the specific issue to which he assigned error. Rule 5:17(c); see Chesapeake Hosp. Auth. v. Commonwealth, 262 Va. 551, 557, 554 S.E.2d 55, 57 (2001).

Moseley's argument that he lacked notice of the alleged misconduct is without merit. Courts are not required to list with specificity their factual basis for issuing a rule to show cause. Moreover, the

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[10] As noted above, the March 16, 2006 order, in and of itself, does not affect Moseley's license to practice law. Moseley's license to practice law remains in effect, even within the jurisdictional boundaries of the Circuit Court of Arlington County; he simply cannot appear in that court. We also note that the March 16, 2006 order, by its specific terms, applies only to the Circuit Court of Arlington County, and does not undertake to revoke Moseley's privilege to practice before the juvenile and domestic relations or general district courts of Arlington County.

record clearly shows Moseley received, inter alia, copies of the motion to disqualify, communication from the Christian Coalition to the court stating the intent to raise correspondence written by Moseley (with copies of the referenced correspondence attached), a transcript of the February 16 hearing detailing the evidence on which the Christian Coalition was relying to support Moseley's disqualification, and the issuance of a rule to show cause in the circuit court's February 27 order. Moseley received more than adequate "notice of the alleged misconduct," which was the subject of the March 16 hearing and embodied in the findings of the March 16, 2006 order. Thus, Moseley's second assignment of error also fails.

III. CONCLUSION

For the reasons set forth above, the circuit court had the jurisdiction to revoke Moseley's privilege to practice before it. Moseley also had adequate notice of the conduct the circuit court would consider in deciding on that revocation. Accordingly, we will affirm the judgment of the circuit court.

Affirmed.

VIRGINIA:

In the Supreme Court of Virginia held at the Supreme Court Building in the City of Richmond on Tuesday *the* 24th *day of* October, 2006.

In Re: Jonathan A. Moseley, Appellant

Record No. 061237
Circuit Court No. 04-0587

[Entered: October 24, 2006]

From the Circuit Court of Arlington County.

Upon the petition of Jonathan A. Moseley, an appeal is awarded him from a judgment rendered by the Circuit Court of Arlington County; upon the appellant, or someone for him, filing an appeal bond with sufficient security or an irrevocable letter of credit in the clerk's office of the trial court in the penalty of $500, within 15 days from the date of the Certificate of Appeal, with condition as the law directs.

On further consideration whereof, the Court grants the appellant's motion to dismiss the Christian Coalition of America, Inc. as the appellee in this case.

This appeal, however, is limited to the consideration of assignments of error Nos. 1 and 2 which read as follows:

1. The trial court erred in revoking Mr. Moseley's right to practice law in the 17th Circuit because the court was without jurisdiction to do so.

2. The trial court erred in revoking Mr. Moseley's right to practice law in the 17th Circuit without notice of the alleged misconduct.

On further consideration whereof, it is ordered that the parts of the record to be printed or reproduced in the appendix are to be limited to those parts of the record germane to assignments of error Nos. 1 and 2, and the briefs to be filed shall be limited to such discussion as is relevant to those assignments of error.

The petition for appeal is refused as to the remaining assignments of error.

A Copy,

Teste: /s/

Clerk

CERTIFICATE OF APPEAL

Pursuant to Rule 5:23, I, Patricia L. Harrington, Clerk of the Supreme Court of Virginia, do hereby certify that on October 24, 2006 an appeal was awarded as described in the order to which this certificate is appended. A copy of this certificate and a copy of the order to which it is appended were this day mailed to the lower court indicated in the order and to all counsel of record.

Given under my hand this 24th day of October, 2006.

/s/
Clerk

VIRGINIA:

IN THE CIRCUIT COURT FOR ARLINGTON COUNTY

TRACY E. AMMONS,	)	
	)	
Plaintiff,	)	
	)	
v.	)	**At Law No. 04-0587**
	)	
CHRISTIAN COALITION OF AMERICA, INC.,	)	
	)	
	)	
Defendant.	)	
	)	

ORDER

UPON CONSIDERATION of Plaintiff Tracy Ammons' Motion to Reconsider, Rehear and Reverse Defendant's Motion for Protective Orders Regarding Subpoena of Mr. Steve McCall and for Arbitration, and/or to Modify March 16, 2006 Order, and Plaintiff's Withdrawal of Objections to Arbitration of Claim, and Defendant The Christian Coalition of America's apparent consent and Motion for Interlocutory Appeal, Final Order and all motions filed by Mr. Moseley are DENIED. This Court consider sanctions and determined they are appropriate against Mr. Moseley and this Court enters sanctions under 8.01-271.1 in the amount of $5,266.50. Court strikes the Notice of Appeal and exhibits filed by Mr. Moseley.

ADJUDGED, ORDERED, AND DECREED that said motions are DENIED; and it is

ENTERED THIS 7th DAY OF APRIL 2006.

/s/
Honorable Benjamin N.A. Kendrick
Circuit Court for Arlington County

WE ASK FOR THIS:

/s/
Brad D. Weiss, Esq. (VSB No. 22389)
CHARAPP & WEISS, LLP
8300 Greensboro Drive
Suite 200
McLean, Virginia 22102
(703) 564-0220
Fax: (703) 564-0221
Counsel for Defendant
Christian Coalition of America, Inc.

SEEN AND OBJECTED TO:

As below

Mr. Jonathan Moseley, Esquire
VSB 41058
44831 Milestone Square #404
Ashburn, VA 20147

/s/

First, the Supreme Court has made clear that sanctions may not be imposed if an attorney has made a good faith effort to research the law and the

facts and/or reasonably believes that a motion is justified. The Court failed to identify any of the grounds required for the imposition of sanctions. A motion to reconsider cannot be a sanctionable pleading where it raises bona fide issues for consideration. Under the Oxenlam and Gilmore cases previously cited, the Court has no power to sanction the pleadings filed in this case or any motion and has failed to comply with the requirements set forth in those Supreme Court cases involving 8-01-271.1.

Similarly, there is clearly a good faith basis for the attorney immediately appealing the March 16, 2006 order with regard to himself personally.

April 7, 2006 Order Continued
Objections by Jonathon Moseley

Thirdly, indeed neither the Defendant nor the Court identified any authority for striking a notice of appeal which is under the Supreme Court's jurisdiction. Therefore, the Court's order was wrong but also Mr. Moseley's actions are not sanctionable.

Fourth, the Defendant neither asked for, nor did the Court rule, on striking the exhibits, but this was gratuitously inserted by counsel on his own authority.

Fifthly, the Court erred in not vacating its March 16 order granting the motion to reconsider, because the authority has been vacated by the General Assembly. The 1923 case found that the General Assembly has occupied the field, changing the prior law and ending the inherit authority of the Court.

The General Assembly then repealed the relevant portion of Code 3916 (later 54-73) ending the Court's unilateral authority, and creating 54.1-3935.

Fifthly, the Court has punished TRUTHFUL public statements about the J.I.R.C. Complaint against Judge Alper in relation to a letter to the Arbitration Association – not in evidence. There is no evidence that those statements were false, and they are 100% TRUE.

Sixth, the Court erred in considering assertions not in evidenced including from the ex parte Feb. 16, 2006 hearing.

Seventh, the Court's actions plainly raise the obvious concern that the Court is retaliating against this attorney because he filed a complaint against Judge Alper before the Judicial Inquiry and Review Commission as was his obligation to do, abridge his rights and the legal system.

Eighth, Jonathan Moseley's <u>private</u> statements – had any proof of them been shown cannot be punished under Gentile v. Nevada State Bar, 501 U.S. 1030 under the First Amendment to the Constitution.

VIRGINIA:

IN THE CIRCUIT COURT FOR ARLINGTON COUNTY

TRACY E. AMMONS,	)	
	)	
Plaintiff,	)	
	)	
v.	)	**At Law No. 04-0587**
	)	
CHRISTIAN COALITION OF AMERICA, INC.,	)	
	)	
	)	
Defendant.	)	
	)	

ORDER

THIS MATTER came on to be heard on the motion of Defendant, The Christian Coalition of America, Inc. ("CCA"), for an Order disqualifying Plaintiff's counsel, Jonathan Moseley ("Moseley"), from representing Plaintiff Tracey E. Ammons ("Ammons") in this cause and for other relief and,

UPON A HEARING on the merits held in open court on February 16, 2006, during which counsel for Defendant appeared and during which neither Plaintiff Ammons nor his attorney, Mr. Moseley, appeared, and

UPON THE EVIDENCE AND TESTIMONY received by this Court at the February 16, 2006 hearing (a transcript of which proceeding is attached hereto), including, but not limited to, the documents

introduced by defense counsel and received into evidence by this Court, the testimony of Defendant's expert, David Ross Rosenfeld, and argument of counsel for Defendant,

THIS COURT DOES HEREBY MAKE THE FOLLOWING FINDINGS OF FACT:

1. On or about November 17, 2006, counsel for defendant transmitted to Mr. Moseley a copy of defendant's Amended Praecipe received into evidence as defendant's Exhibit 1 which confirmed that a hearing in this cause was being specially set for a hearing on February 16, 2006.

2. In a letter dated February 10, 2006, received into evidence as defendant's Exhibit 2 Mr. Moseley expressed his awareness that a hearing in this cause had been scheduled for February 16, 2006.

3. In a communication from Mr. Moseley to defendant's counsel dated a February 15, 2006, received into evidence as defendant's Exhibit 3, Mr. Moseley made specific reference to the instant hearing;

4. The Virginia Court's Case Information Docket Sheet received into evidence as defendant's Exhibit 4 reflects this matter as being docketed for a hearing on February 16, 2006.

5. On August 2, 2004, this Court granted Defendant's Motion for Sanctions and entered an order awarding sanctions in favor of Defendant and against Plaintiff Ammons and Mr. Moseley, jointly

and severally, in the amount of $83,141.24, plus interest and costs.

6. In late 2004, Plaintiff Ammons sought to have this award discharged in bankruptcy; he was unsuccessful. In late 2004, Mr. Moseley also filed for bankruptcy protection; he was successful in having his obligation vis-a-vis the aforesaid sanction award significantly reduced.

7. Mr. Rosenfeld testified that his opinion and with reasonable legal certainty, the disposition of the Messrs. Moseley's and Ammons' bankruptcy petitions as regards the aforesaid sanction award resulted in the creation of an irreconcilable conflict of interest which would preclude Mr. Moseley from continuing to represent Mr. Ammons in this cause.

8. Mr. Moseley, acting on behalf of Plaintiff Ammons, noticed an appeal to the Virginia Supreme Court from this Court's sanction award; however, on March 15, 2005, the Virginia Supreme Court entered an order dismissing Plaintiff's appeal, citing Plaintiff's failure to properly perfect said appeal.

9. Mr. Rosenfeld testified that in his opinion and with reasonable legal certainty, Mr. Moseley's failure to properly perfect the appeal resulted in the creation of an irreconcilable conflict of interest which precluded Mr. Moseley's continued representation of Mr. Ammons in this cause.

10. On November 23, 2004, the Honorable Joanne Alper, a judge of this Court, entered an order disqualifying herself from hearing Defendant's

Motion to Disqualify Mr. Moseley. Notwithstanding the clear and unambiguous language of said Order, in his letter dated November 9, 2005, received into evidence as Defendant's Exhibit 11, Mr. Moseley made numerous false statements regarding the content of Judge Alper's Order.

11. After nonsuiting the original action he filed on behalf of his client, Mr. Ammons, in this cause, Mr. Moseley, acting on behalf of Mr. Ammons, filed a new and verified Motion for Judgment in this Court which was signed by Mr. Moseley. The verified Motion for Judgment alleged substantially the same matters alleged in the original Motion for Judgment and asserted further that this Court had jurisdiction and that venue was proper. This assertion notwithstanding, Mr. Moseley prepared, signed, and filed with this Court a motion seeking a change of venue. In that motion, Mr. Moseley further falsely alleges that said motion was unopposed.

12. In the aforementioned verified Motion for Judgment, Mr. Moseley, as Plaintiff's counsel, alleges that Defendant had previously knowingly and intentionally waived arbitration, that arbitration was not an issue in this cause, and that any arbitration decision would be void and reversible upon appeal. This allegation notwithstanding, counsel for Defendant has advised this Court that Mr. Moseley, acting on behalf of Plaintiff Ammons, has formally initiated arbitration of the dispute addressed in the verified Motion for Judgment.

13. Counsel for Defendant has represented to this Court that Defendant intends to call Mr.

Moseley as a witness during a trial on the merits in this cause to testify regarding various elements of the case, including the provision regarding binding arbitration, and that Mr. Moseley's testimony is likely to be adverse to Plaintiff.

14. Mr. Rosenfeld has testified that the standard of care requires an attorney to withdraw from the representation of a client when it is obvious that a lawyer may be called as a witness other than on behalf of the client and that lawyer's testimony is or may be prejudicial to the client.

15. This Court has received additional pleadings, communications and correspondence relating to Mr. Moseley and has duly considered all of the facts, testimony and evidence.

THIS COURT CONCLUDES AS A MATTER OF LAW AS FOLLOWS:

1. Plaintiff Ammons and his counsel, Mr. Moseley, had timely, adequate, and proper notice of this proceeding.

2. This Court has the inherent power to suspend or annul the license of an attorney practicing before it. § 54.1-3915, Code of Virginia, 1950, as amended, *Legal Club of Lynchburg v. A.H. Light*, 137 Va. 249 (1923).

3. Mr. Moseley has an irreconcilable conflict of interest with Plaintiff Ammons, which conflict of interest precludes his continued representation of Plaintiff Ammons in this cause and which requires that Mr. Moseley immediately

terminate his representation of Plaintiff Ammons in this cause.

4. The record of Mr. Moseley's conduct during the conduct of this cause and Mr. Moseley's failure to appear before this Court on February 16, 2006, in response to Defendant's timely, adequate, and proper notice of this proceeding raises sufficient and serious questions for this Court regarding Mr. Moseley's competency and fitness to practice law before this Court.

5. This Court further finds that Mr. Moseley has engaged in unethical conduct in violation of the Virginia Code of Professional Conduct and has made contemptible, irresponsible and false statements about a sitting judge and other conduct previously set forth.

6. This Court has given Mr. Moseley notice of the matter before it and upon the evidence and testimony, Mr. Moseley's right to practice in this Court should be revoked and this matter referred to the Virginia State Bar and Supreme Court of Virginia for immediate consideration of reciprocal summary revocation of his license to practice law.

WHEREFORE, IT IS HEREBY ORDERED:

1. Plaintiff's counsel, Jonathan Moseley, be and he hereby is disqualified from representing Plaintiff Ammons in this cause;

2. Jonathan Moseley is hereby directed that this Court finds that Jonathan A. Moseley's right to practice before the Circuit Court of

Arlington, 17th Judicial District, be and hereby is revoked. The Clerk of the Court is directed to transmit a certified copy of this Order to the Virginia State Bar and Supreme Court of Virginia for consideration of reciprocal revocation of licensure and/or such other discipline as determined by the Virginia State Bar and/or Supreme Court of Virginia.

Motions for Protective Order and to quash subpoenas issued by Plaintiff: Protective Order granted and subpoenas quashed.

AND THIS CAUSE CONTINUES

ENTERED THIS 16th day of March 2006.

/s/
Benjamin N.A. Kendrick
Judge, Circuit Court of Arlington County

WE ASK FOR THIS:

/s/
Brad D. Weiss, Esq. (VSB No. 22389)
Stephen F. Varhold, Esq. (VSB No. 45957)
CHARAPP & WEISS, LLP
8300 Greensboro Drive
Suite 200
McLean, Virginia
(703) 564-0220 (telephone)
(703) 564-0221 (facsimile)
Counsel for Defendant
Christian Coalition of America, Inc.

SEEN AND OBJECTED TO: (objections attached)

/s/

Jonathon Moseley, Esq. (VSB No. 41058)
44831 Milestone Square
#404
Ashburn, Virginia 20147
Counsel for Plaintiff

Law No. 04-587

Objections to March 16, 2006 Order

1. Failure to hear, consider & grant Plaintiff's Motion to stay the case in favor of arbitration under 9 USC § 2 & Va. Code § 8.01-5810, thereby divesting the court of jurisdiction;

2. Ct. erred in deciding that Tracy Ammons' waiver of any conflict with Jon Moseley was inadequate;

3. Ct. erred in admitting each of the exhibits accepted into evidence, as each lacked a foundation, was irrelevant, and prejudicial to Tracy Ammons;

4b. Ct. erred in allowing a Rule to Show Cause regarding Mr. Moseley's status without a pleading specifying allegations or claims;

4. Ct. erred in not requiring or providing adequate notice & opportunity for Jon Moseley to be heard regarding consideration of his status as a member of the bar;

4a. A Rule to Show Cause hearing was held based on a vacated order;

5. Ct. erred by misapplying Rule 3.7 as to "potential witness" vs. "necessary witness";

6. Ct. erred in concluding that Jon Moseley may or will be called as an adverse witness to Tracy Ammons without supporting evidence;

7. Ct. erred in its reliance on Feb. 16, 2006 transcript except to the extend it was used for impeachment;

8. Ct. erred accepting expert's testimony as factual testimony;

9. Ct. erred in its findings of fact, in that there is no proper evidence of Findings 1-4, 7-10, 12-13;

10. Ct. erred in effectively rehearing the sanctions hearing previously addressed by Judge Alper in Aug. 2004; and

11. Ct. erred in conclusions of law 1, 3, 4, 5 & 6, as these are not supported by the law & evidence.

VIRGINIA:

In the Supreme Court of Virginia held at the Supreme Court Building in the City of Richmond on Friday *the* 22nd *day of* June, 2007.

In Re: Jonathan A. Moseley, Appellant

Record No. 061237
Circuit Court No. 04-0587

[Entered: June 22, 2007]

Upon a Petition for Rehearing

On consideration of the petition of the appellant to set aside the judgment rendered herein on the 20th day of April, 2007 and grant a rehearing thereof, the prayer of the said petition is denied.

A Copy,

Teste:

Patricia L. Harrington, Clerk

By: original order signed by a deputy clerk of the Supreme Court of Virginia at the direction of the Court

Deputy Clerk

VIRGINIA:

In the Supreme Court of Virginia held at the Supreme Court Building in the City of Richmond on Tuesday *the* 17th *day of* July, 2007.

In Re: Jonathan A. Moseley, Appellant

Record No. 061237
Circuit Court No. 04-0587

[Entered: July 17, 2007]

Upon an appeal from a judgment rendered by the Circuit Court of Arlington County.

For reasons stated in writing and filed with the record, the Court is of opinion that there is no error in the judgment appealed from. Accordingly, the judgment is affirmed.

This order shall be certified to the said circuit court.

A Copy,

Teste: /s/

Clerk

* * *

THE COURT: I'm listening to you.

MR. MOSELEY: that was a final order with regard to those parties for whom the rights have been finally denied.

Now, the notice of appeal is filed with the Clerk of the Circuit Court. However, it is within the jurisdiction of the Supreme Court to decide whether an order is appealable.

I have looked in the Case in Virginia all over. I can't see any case in which a motion to strike a notice of appeal is even entertained, much less granted.

I don't know that counsel hasn't' found one, I don't know if you have found one. But the very concept of striking a notice of appeal is one that appears to be foreign to Virginia law. It has certainly never appeared anywhere, because it is the province of the Supreme Court once the notice of appeal is filed.

The notice of appeal is very clear about that portion of the order only involving me.

Now, I have objected previously and I object now to the improper combination of a matter that should have been a separate action served on me with a pleading about me and dealt with separately.

And, frankly, that is one of the errors I think that has been made here.

And so that means I have to make – .

Because the notice of appeal is served with the Clerk and becomes under the Supreme Court of Virginia, I don't think anything would changed the deadlines in the Supreme Court.

If this Court thought that it wasn't the final order and it was wrong, I believe the deadline would run in the Supreme Court, and as a consequence of that, I would be out of time if I didn't file a notice of appeal and file a petitions and file with the other orders.

So I believe its very clear that when- you know, I want to raise the fact that clearly my public statements were a hundred percent true, that the statute has been repealed, that at a certain time it occupied the field and removed the inherent authority under 1922 case, that I have to raise that now. I have no choice.

Now, I have objected to the fact that I've been made an issue here at all.

I find Mr. Weiss' comments incomprehensible. He has attacked me and yet then complained that he's attacked me. He has involved me and then complains that he's involved me. I don't know how you can have it both ways.

And so while I do believe the proper procedure and what the Court should do and should have done is bring a separate actions that would involve me, that nothing should happen within the case of Ammons versus Christion Coalition regarding me as

my status as an attorney; that it should be a separate action. It should have been severed. It could have been brought separately.

But it certainly should not be considered as part of it now.

There is a case going on between these two parties.

If we say we're concerned about the administration of justice, we need to make sure those parties, real live parties, get a fair proceeding and a fair hearing.

You can't say that were concerned about the judicial system and then not care about individual particular parties.

In that regard, I wonder what basis does Mr. Weiss have in the name of an employer who doesn't want to pay his employee to participate with regard to whether I file a notice of appeal about myself as an attorney. He has not been hired by the bar. He has not been hired by the court. The old statute from 1887 has been repealed so that it's the court's action, not an opposing party's action, that has a right.

So I don't believe he has any standing in which to file any opposition or even be here today because this is not about his client and e made it about something else and unfortunately that is the issue.

All public statements I made were one hundred percent true, as is shown by the complaint.

I does look very uncomfortable seeing that complaint where I have accurately described what went on and we had a whole bunch of statements of counsel without evidence and a motion to strike that was denied and I believe that, given the facts that the private statements raise a constitutional issue under Gentile versus the Nevada State Bar given that the fact that all of the public statements were absolutely true, as even indicated by the exhibits that I understand were provided in the ex parte hearing on February 16th, that you should certify it for an interlocutory appeal if you don't find that it's a final order.

I don't see how it could not be a final order.

THE COURT: Mr. Moseley, your motions to reconsider are denied.

Mr. Weiss, your motions are granted and your request for sanctions in this amount of $5, 266.50 is granted.

Prepare an order, please.

MR. MOSELEY: Your Honor, may I note my objection and the standard under which sanctions may be –

THE COURT: You can take all the time you want and not your exceptions to that order.

MR. MOSELEY: Thank you.

THE COURT: As long as you do it in the courtroom. And don't leave.

MR. MOSELEY: All right.

MR. WEISS: Judge when we're done, if I may have the file. Mr. Bell asked me to coordinate the transcript with the orders so that he may transmit it to the Virginia Supreme Court and the State Bar.

THE COURT: That's fine.

(Whereupon, at 9:45 a. m. the motion was concluded)

Court's Decision on March 16, 2006, Abridges FIRST AMENDMENT to Constitution

7) On March 16, 2006, the Respondent attorney apologized earnestly for any ill-chosen words in private communications, and asked for the court's tolerance, and would wish to apologise further for any ill feelings in the opportunity may allow,

8) Equally important, however, the Court's March 16, 2006, Order ruling and order are ***unconstitutional abridgments of the First Amendment*** pursuant to Gentile v. Nevada State Bar, 501. U.S. 1030 (1991) and In re Primus, 436 U.S. 412 (1978), *see also,* Landmark communications, Inc. v. Virginia, 435 U.S. 829, 98 S. Ct. 1535, 56 L.Ed.25 1 (1978) and Bates v. State Bar of Arizona, 433 U.S. 350 (1977).

9) This Court's March 16, 2006, violates the First Amendment to the United States Constitution under the right of Free Speech and also free exercise of religion.

10) The United States Supreme Court has settled the key question of public statements versus a private email, in laying down governing standard (note that through various opinions on different issues, the discipline against attorney Gentile was struck down):

> When a State Regulation implicates **First Amendment rights,** the Court must balance those interests against the State's legitimate interest in

> regulating the activity in question. See, e.g., Seattle Times, supra, at 32. The "Substantial likelihood" test embodied in Rule 177 is constitutional under this analysis, for it is designed to protect the integrity and fairness of a state's judicial system, ***and it imposes only narrow and necessary limitations on lawyers' speech. The limitations are aimed at two principal evils: (1) comments that are likely to influence the actual outcome of the trial, and (2) comments that are likely to prejudice the jury venire, even if an untainted panel can ultimately be found. ...***

Gentile v. Nevada State Bar, 501 U.S. 1030 (1991) (*Emphases added*)

> The restraint on speech is narrowly tailored to achieve those objectives. ***The regulation of attorneys' speech is limited- it applies only to speech that is substantially likely to have a materially prejudicial effect*** [on the trial]; it is neutral as to points of view, applying equally to all attorneys' participation in a pending case; ***and it merely postpones the attorney's comments until after the trial.*** While supported by the substantial state interest in preventing prejudice to an adjudicative proceeding by those who have a duty to protect its integrity, ***the***

> ***rule is limited on its face to preventing only speech having a substantial likelihood of materially prejudicing that proceeding.***

Gentile v. Nevada State Bar, 501. U.S. 1030 (1991) *(emphases and clarifying phrase added).*

11) To illustrate this Constitutional principle, one should compare Morrissey v. Virginia State Bar, 538 S.E.2d 677 (Va., 2000) in which a 3 year suspension was imposed for showing a videotape to the news media in a press conference in which a grand jury witness recanted his grand jury testimony, in violation of the stricter regulations that apply to a pending *criminal* trial.

12) Punishment of a private email sent to a few prayer partners requesting prayer wholly fails the Constitutional First Amendment test required by the U.S. Supreme Court for content-based restrictions on the First Amendment rights of the Respondent (with regard to Free Speech, which is well-developed, and the exercise of religion, though not as well-understood).

13) A ***private*** communication does not have a substantial likelihood of affecting the jury venire of an upcoming trial. The case in question was at that very moment in arbitration, not in this Court Indeed, no one would have even know about the private communication *but for* the Defendant's very motion in court to punish the Respondent.

14) The protections of the First Amendment are their zenith, and most powerful within the First

Amendment's history and intent, where criticism of governmental actions becomes the issue, no matter how regretfully comments may hurt, or even be regretted.

15) Similarly, the sanctity of private communications, particularly in the context of ***seeking prayer*** and seeking understanding for life's misfortunes, and the ability to privately discuss concerns free from fear and the chilling effect of government intrusion are all central to the meaning of American citizenship, personhood and the personal pursuit of understanding: "At the heart of liberty is the right to define one's own concept of existence, of meaning, of the universe, and of the mystery of human life." Lawrence V. Texas, 539 U.S. 558 (2003).

16) Against the very core of the First Amendment's purpose and effect, the Court was required to find (1) ***public*** comments that were likely to influence the actual outcome of a trial by jury, (2) comments that were likely to prejudice ***the jury venire***, and (3) that any restriction upon comments would be **temporary** in nature postponing Free Speech only until after the trial.

17) Although, the rule in question in Gentile was a slightly different one, that distinction is ***worse*** for the Constitutionality of this Court's March 16, 2006, Order. The rule at issue in Gentile offered greater rationale for constitutional application, yet the Court's March 16, 2006, Order is instead ***less*** defensible under the United States Constitution.

18) Respondent repeatedly challenged on March 16, 2006, the lack of any precedent or authority offered by the Defendant/Movant or the Court for the Defendant's desire to punish the Respondent for a ***private*** email asking for prayer.

19) The Defendant/movant and the Court failed completely to identify any precedent or authority for the proposition that a ***private*** prayer request to a small number of prayer partners and spiritual prayer partners can be punished based on the content of the speech.

20) Meanwhile, this Constitutional right is enforced by Federal statute, specifically 42 U.S.C. § 1983, among others. Virginia statutes limits the authority of Virginia's courts:

§ 54.1-3915. Restrictions as to rules and regulations.

> Notwithstanding the foregoing provisions of this article, ***the Supreme Court*** *shall not promulgate rules or regulations* prescribing a code of ethics governing the professional conduct of attorneys ***which are inconsistent with any statute***; nor shall it promulgate any rule or regulation or method of procedure which eliminates the jurisdiction for the violation of any rule or regulation adopted under this article be tried in any other manner

Va. Code § 54.139-15 (*emphasis added*) 42 U.S.C. § 1983 restrains any such rules

* * *

THE COURT: Do you want to talk to this Court about your – whether or not this is your e-mail and the allegations that you made against another attorney and the allegations you made about a judge being wacko and on the take or taking a bribe? Do you want to address any of that?

MR. MOSELEY: Well, Your Honor, I started to say that I believe I have – I have been very frustrated and very upset, and I apologize very deeply for that. I have been – I thought I was asking for prayer from people who have a particular Christian lingo, and –

THE COURT: Did you say this: Brad Weiss is almost certainly demonically empowered. I have never seen anyone who reeks of evil so much, and when he shows up on the scene, all of the normal rules get broken. He lies. His lies are proven. And yet, the judges follow his lies as if in a trance or hypnotized.

MR. MOSELEY: Your Honor, you have to understand that I am saying –

THE COURT: Well, did you?

MR. MOSELEY: I believe I may have said that, yeah.

THE COURT: And did you also say that –

MR. WEISS: Page 3 –

THE COURT: – if the arbitrator finds against us, Mr. Tracy Ammons and I will be destroyed, as we have been ordered to pay $83,000 in attorney's fees in an absurd decision by a wacko judge, who I believe was bribed? Did you say that?

MR. MOSELEY: Well, Your Honor, I was very upset.

THE COURT: Did you say that?

MR. MOSELEY: To my private prayer partners, yes. And I believe – I mean, I don't recall writing that. I'm actually surprised that I said that. So I don't recall it, but I guess – I guess I did. And I was very, very upset at the time.

But, again, this was not a public statement. This was to people I was asking for prayer who have a particular understanding of, you know, what happens in the spiritual world that people don't necessarily know about themselves, you know, that believe that there are things going on in the spiritual world that are not tangible or knowledgeable or intentional by people.

You know, that is the audience to which I was addressing it, people who think that there are – there are – you know, when you deal with something like, you know, the Christian Coalition, there are spiritual forces. And so, I mean, the people that I was talking to understood it that way, that these – Val Perry is a pastor of mine. David Grappo is another pastor of mine. And their understanding is that this would be things that may happen with a

person that are outside of their tangible awareness but are influencing them and influencing the events.

You know, that is what I intended, and I deeply apologize for my frustration and anger over everything that has happened in this regard. But I was – you know, I will, frankly, say that this – you know, I think in some states it would be pastoral privilege in terms of asking for – you know, for pouring out my heart to those – Betsy Thraves is a woman that I was on the mission field with, and I – you know, I deeply apologize for asking for their emotional support and their prayer support and in acting in that way.

All I can do is deeply apologize and ask that, you know, the client's interests be put first in this matter and allow this case to go forward and not be –

THE COURT: Well, this case is going to go forward. The question is whether you are going to have any participation in it.

MR. MOSELEY: Well, the trial is in two weeks –

THE COURT: I understand.

MR. MOSELEY: – and he wouldn't – you know, he has testified that he is a schoolteacher.

THE COURT: I understand.

MR. MOSELEY: So I would ask that that be first and foremost in this case, is that he go forward in that regard.

Now, the other issues – and again, I am trying to cover everything that has been said, not even realizing how far back or how deeply in the past events you are considering things, but –

THE COURT: I told you. I'll say it again. I am considering your conduct –

MR. MOSELEY: I know.

THE COURT: – as it was testified to in this Court and based on Mr. Rosenfield's opinion whether or not you should be allowed to remain in this case.

MR. MOSELEY: Okay.

THE COURT: What happened a long time ago, if it isn't part of his opinion, I'm not considering that.

MR. MOSELEY: Okay. Well –

THE COURT: He has made specific references to conflicts of interest before the Bankruptcy Court, before the arbitration hearing and other matters that – and Exhibits 1, 2 and 3.

MR. MOSELEY: Okay.

THE COURT: It's very narrow.

MR. MOSELEY: Well, I thought he testified to, you know, generally the conduct, and I want to be sure I respond to that. And if that's – to the extent –

THE COURT: You heard the rules – Rule 1.7, Rule 7, Rule 8.2 – as it relates to your conduct.

MR. MOSELEY: I understand.

THE COURT: All right.

MR. MOSELEY: I just thought he was being more sweeping than that in terms of –

THE COURT: No, I'm not. I keep saying it over and over and over.

MR. MOSELEY: Okay. All right. I thought Mr. Rosenfeld may have covered more ground than that in terms of –

THE COURT: If he did, it was in response to hypothetical questions that you laid at his feet that you're asking him.

MR. MOSELEY: Okay. So if I understand, you are not concerned about the specifics or anything – any of the specific actions in the previous case.

THE COURT: I am concerned about your conduct, vis-a-vis conflict of interest as it unfolded in the Bankruptcy Court, as it relates to the sanctions, as it relates to the arbitration and, quite frankly, your addressing in public another lawyer and calling him a liar, accusing this Court and the other judges of this Court of being less than ethical, in particular, Judge Alper of being on the take, taking a bribe. All right? That's what I'm concerned about, and I'm very concerned about it.

MR. MOSELEY: I understand, Your Honor, and I deeply regret it.

Well, you keep mentioning my conduct, but I believe that they keep talking about what I have done in the case as part of my conduct. Now, if you want to talk about – you know, again, this e-mail was to three private people. I don't know where else it came out, and I would object to calling it public.

In any event, in terms of those issues –

THE COURT: You don't think an e-mail that you send out is public –

MR. MOSELEY: I would –

THE COURT: – calling a judge wacko and taking a bribe?

MR. MOSELEY: I would think it would depend on to whom it was sent, Your Honor. I guess I trusted too much.

* * *

Roberta Combs

From: "Colby M. May" <cmmay@maylawoffices.com>
To: <Roberta.combs@cc.org>
Sent: Friday, March 03, 2006 3:06 PM
Subject: FW: Request for Prayer re: Huge Lawsuit

Roberts, FYI, Nina got this bizarre e-mail from Jon Mosley. I see what you were referring to when you mentioned this several weeks ago.

God bless,

Colby M. May
Colby M. May, Esq., P.C.
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-----Original Message-----
From: Jonathon Moseley [mailto: JonMoseley@Earthlink.Net]
Sent: Friday, March 03, 2006 7:46 AM
To: Betsy Thraves; Bob Perry in Nashville; David Grabau

Subject: Request for Prayer re: Huge Lawsuit

Dear Friends:

I am astonished at how often in the Bible God expresses his intense wrath at injustice IN THE COURTS, and condemns the rich cheating the poor, employers cheating their employees, specifically IN THE COURTS as well as generally.

I have asked for prayer in this bizarre, spiritual battle that I have found myself in without wanting it or expecting it, in which I have been asked to pay $83,000 in attorneys fees. I truly have never experienced anything so demonic before on a personal level, with clearly malevolent forces turning normal procedures into weird and bizarre events.

Some of you may not want to hear about it any more, but others have asked me what is going.

PLEASE NOTE THAT YOU DO NOT HAVE TO TAKE SIDES TO PRAY FOR JUSTICE AND TRUTH TO PREVAIL.

The trial scheduled in arbitration for February 13 was postponed at the very last minute when the Christian Coalition's attorney David Haller was hospitalized with something very serious, so they say. They have been trying at all costs to postpone the trial, and this was certainly convenient for them.

The new trial date is April 3, although we are sure they will try to postpone it again so they can play more games.

Meanwhile, their old lawyer in Virginia, Brad Weiss, is exploiting the delay (which was the whole plan) to try to get me disbarred and removed from the case through motions in Arlington County Circuit Court (the case is no longer there, but in arbitration, so his actions are improper, but so far successful).

Brad Weiss is almost certainly demonically empowered. I have never seen anyone who reeks of evil so much and when he shows up on the scene, all the normal rules get broken, he lies, his lies are proven, and yet the judges follow his lies as if in a trance or hypnotized. The judge gets angry at me for what Brad Weiss has done. The judge ignores Brad Weiss' clear violations of the rules time and time again, and gets angry only at us. PLEASE PRAY against any demonic power in this case.

On March 16, Brad Weiss has asked the Court to revoke my license to practice law, and to remove me (as his opponent) from the case.

Note that this comes only weeks away from the actual trial, and is transparently to THROW the case. So what he is asking the judge to do is to DECIDE WHO WINS, by depriving his opponent of any attorney at all.

Under Virginia law, this is itself unethical. An attorney cannot bring a motion for disqualification to gain advantage in pending litigation. Yet that is exactly what Brad Weiss is doing, in violation of Virginia rules.

I want to beg you for more prayer about this surprisingly-difficult and nasty lawsuit I have had, including to PRAY FOR JUDGE BENJAMIN KENDRICK to not be spiritually influenced by evil, to have a clear mind, to be conscientious, and to make a fair and right decision.

The lawsuit is merely a claim for unpaid salary by the former Chief Senate Lobbyist of the Christian Coalition.

We are now in arbitration, and much will depend upon the Arbitrator James Mercurio. There is NO effective appeal from arbitration. Therefore, if the Arbitrator is confused or does not understand the situation or makes a bad decision, we will have NO remedy whatsoever. If the Arbitrator makes a bad decision, we will have NO HOPE or recourse whatever.

We will be 'screwed' if the Arbitrator gets it wrong.

Please note that we have made DOZENS of offers to SETTLE this dispute as Christians, including many before any lawsuit was filed. Mr. Tracy Ammons had no choice but to file the lawsuit, because he was being threatened with jail for a $36,000 debt from his divorce from the Vice President of the Christian Coalition, Michele Combs, who is the daughter of Roberta Combs, its President. However, the Christian Coalition refuses to sit down and talk things through or to settle on anything like fair terms. In fact, we proposed to have Pat Robertson's office or lawyer mediate privately, but

the Christian Coalition rejected Pat Robertson's own involvement!

We are still praying for Roberta Combs to be visited by 'the Ghosts of Employees Past' and have a Scrooge-like conversation and to lose her bitter and vindictive attitude. We are still praying for a chance to settle the case, and we continue to make sure that there is a new settlement offer pending at all times that the Christian Coalition might accept to resolve this mess.

Therefore, I beg for your prayers that the Arbitrator James Mercurio (1) will be scrupulously honest and will feel God's Holy Spirit in his presence and in his conscience when he considers these matters, (2) will have a clear mind and keen understanding by God Holy Spirit, so that Mercurio will understand the case exactly and will make good, correct, fair, and just decisions, (3) that demonic forces that want to keep Roberta Combs as head of the Christian Coalition from learning God's justice and returning to God, and wants to encourage her acrimonious and vindictive attitudes, will be rebuked and bound and will not be allowed to influence the Arbitrator James Mercurio, (4) that God would speak clearly to the Arbitrator James Mercurio as to what is right and just, and (5) that all of the nonsense and dust in the air would be exposed as side shows and distractions by God's Holy Spirit and the Arbitrator would ignore these distractions, and (6) the Arbitrator will promptly report any attempt at bribery and will reject any bribes and that anything that is hidden in the shadows will be exposed into the light.

If the Arbitrator finds against us, Mr. Tracy Ammons and I will be destroyed as we have been ordered to pay $83,000 in attorneys fees in an absurd decision from a whacko judge, whom I believe was bribed.

Therefore, we have no option: WE MUST WIN or be destroyed financially. If we win $130,000 plus up to $35,000 in interest, we can discharge any debt.

It has cost us $2,250 to file in arbitration, as was required, and the Arbitrator is now requiring an additional $13,150 as one half (1/2) of the Arbitrator's fees for the arbitration. That is, it will cost $28,550 to litigate a $130,000 claim. The Arbitrator's fees will be 22% of the total amount we are claiming! And of course neither Mr. Ammons nor I have this money. We will have to borrow these funds. Note that this $13,150 is on top of the other amounts we have been ordered to pay.

Tracy Ammons mother-in-law Roberta Combs, the President of the Christian Coalition, hired Mr. Tracy Ammons as Chief Senate Lobbyist and Human Resources Director. Tracy was previously working for Freedom ISP with Marlene Elwell, where he was earning $6500 per month to promote a family-friendly internet service that would screen out porn and violent content. Roberta Combs promised to match Tracy's $6500 per month salary at the Christian Coalition, but said she needed his help for the family to make the Christian Coalition a success. Tracy's wife Michele already had her own contract from 10 months earlier (a repeat of an even earlier contract under another company), so that both

husband and wife had their own independent contracts and salaries from the Christian Coalition.

Roberta Combs signed a November 1, 2001, Contract with Tracy Ammons for his own separate employment relationship at $6500 per month. CCA paid him $6500 for is work in November 2001. Then Roberta Combs stopped paying him, and tried to claim that he was working under his wife's separate contract entered into 10 months earlier for "special events consulting work" which was entirely different work.

A former FBI Special Agent Document Examiner with 18 years experience and 200 trials under his belt has issued an opinion that Roberta Combs DID sign the contract in question, which means that the Christian Coalition must pay Tracy Ammons the money.

Jon Moseley

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